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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEB 16 1994
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN THE MATTER OF:

MM DOCKET NO. 93-75

TRINITY BROADCASTING OF FLORIDA, INC.
and
GLENDALE BROADCASTING COMPANY
Miami, Florida

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FREE STATE REPORTING, INC.
Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

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In the matter of:TRINITY BROADCASTING OF FLORIDA, INC.
and
GLENDALE BROADCASTING COMPANY

MM DOCKET NO. 93-75

Miami, Florida

The above-entitled matter come on for hearing pursuant to
Notice before Judge Joseph Chachkin, Administrative Law Judge,
at 2000 L Street, N.W., Washington, D.C., in Courtroom 3, on
Wednesday, January 26, 1994 at 9:30 a.m.

APPEARANCES:

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1		I N D E X			
2	<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
3	Lee Sandifer				
4	By Mr. Shook		5131		
5	By Mr. Schauble			5183	
6	By Mr. Emmons				5187
7					
8	George Gardner				
9	By Mr. Emmons	5195			
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24	Hearing Began: 9:30 a.m.		Hearing Ended: 4:00 p.m.		
25	Lunch Break Began: 11:50 a.m.		Lunch Break Ended: 1:05 p.m.		

P R O C E E D I N G S

JUDGE CHACHKIN: Let's go on the record Mr. Shook.

MR. SHOOK: Thank you, Your Honor.

Whereupon,

LEE SANDIFER

having first been duly sworn, was recalled as a witness herein and was examined and testified as follows:

CROSS-EXAMINATION

BY MR. SHOOK:

Q Mr. Sandifer, yesterday when we left, we were talking about efforts being made by Raystay to look at programming possibilities. And initially the focus of my question and I, I think the thrust of your answer was that the programming possibilities that were explored by Mr. Etsell in the period February '91 through May of 1991 were for the five low-power permits and TV40, that it was more or less a package arrangement. Would that be a correct understanding?

A That he explored in that period were -- yes, that was as a part of, of the package.

Q Now moving on to September through December of 1991, when we left yesterday, I believe you testified that Mr. Etsell again was exploring some programming possibilities during that period. Am I correctly remembering?

A Yes.

Q And in addition to his explorations you were also

1 making inquiries relative to programming?

2 A Yes, sir. I was making inquiries. Mine were
3 primarily directed towards TV40, but they would have had
4 applications to the construction permits as well.

5 Q Can you explain to us how there was going to be that
6 connection between TV40's programming and the programming of
7 the other low-power stations?

8 A Well, I think like most LPTV stations that I'm aware
9 of they have a number of locally originated programming or
10 locally oriented. And then they have a backdrop of either
11 some national network or some other type of programming. And
12 I think that, that we, we at TV40 worked on primarily the --
13 we were more concerned about the local developed programming.

14 And it was not -- it was important but it was not,
15 you know -- I, I mean we have changed our format on TV40 more
16 than once to different networks in the period of time that I
17 have been employed there. So I don't think that the backdrop
18 that we were using for TV40 was unique as such so that if
19 another programming option would be developed we would put
20 that on TV40 and then augmented it by local sports and other
21 programs that we developed in each of the markets.

22 Q Was the basic idea throughout the period of February
23 1991 when Mr. Etsell's plan was first brought forward until
24 March 1993 when the construction permits were handed in to the
25 Commission that TV40 was going to be the flagship and that the

1 bulk of whatever programming was going to be run on the low-
2 power stations was going to be on TV40 and then shared with
3 the other low-power stations?

4 A I think that's essentially correct. You know, TV40
5 has the advantage that its studio is in Carlisle area and it,
6 its antenna site is adjacent to one of our antenna sites for
7 the cable system. So we have a microwave hop between the head
8 in at the Carlisle cable system and the transmit site. And as
9 such, you know, we're much, much more able to manage the
10 operation from Carlisle.

11 So I think the intent was, and you know, I can't
12 speak for the whole, whole thing, because I'm neither an
13 engineer or a marketer, but in discussions that I had with Mr.
14 Fenstermacher in which George Gardner was present and which
15 George Gardner led, he talked about the economies that would
16 be had of microwaving signal from Carlisle or our head in and
17 our antenna site in Dillsburg to some of these other
18 locations. And then that would allow us to probably have one
19 major studio and some smaller studios so that, you know --
20 whether the term flagship is the appropriate term, I mean I
21 think that, that the hub of the operation could have been
22 anyplace. It just so happened TV40 was the only station that
23 we had built at that time.

24 Q Well, what I'm, what I'm looking for as much as
25 anything is whether there was a plan, and if there was a plan

1 what the plan was in terms of if TV40 was not going to be the
2 flagship or the hub, then was there a plan to make one of the
3 other locations such a flagship or a hub?

4 A TV40 while having the, the proximity to our
5 corporate office is not near the highest concentration of, of
6 the population of the area necessarily. So I mean we
7 discussed having hubs in, in Lancaster. You know, other --
8 many discussions went on, but they never got beyond the
9 preliminary discussions.

10 So I guess, you know, from my understanding TV40
11 would, could and might have been involved in the, in the
12 network. But it's not near the largest population base.

13 Q Well, was there any significance or connection then
14 between finding programming that would be acceptable or better
15 received on TV40 than finding programming that would be
16 acceptable in, in one of the other locations if in fact one of
17 those other locations was supposed to be the hub of the
18 network?

19 A Okay. Could you restate the question?

20 Q All right. I'll, I'll try to do that over again.
21 If TV40 is not going to be the hub, if some other location is
22 going to be the hub, what significance if any is there then to
23 finding programming that's going to be acceptable on TV40 if
24 that's not the programming that's going to be relied upon with
25 respect to one of the other locations?

1 MR. SCHAUBLE: Objection. I think there's an
2 improper predicate in that question, Your Honor.

3 JUDGE CHACHKIN: Well, what is that?

4 MR. SCHAUBLE: That is that the idea -- the question
5 of whether TV40 or one of the other stations was going to be a
6 hub is not necessarily the same question as to whether the
7 programming at one of the, at TV40 was applicable to the
8 programming at one or more of the construction permits.

9 MR. SHOOK: Your Honor, the basis for my question is
10 I'm, I'm just trying to get pinned down what significance, if
11 any, there is to efforts being made by Raystay to acquire
12 acceptable programming for TV40 if that programming isn't
13 going to be relied upon by Raystay in its determination
14 relative to the other locations.

15 JUDGE CHACHKIN: Well, when is -- when did TV40 go
16 on the air?

17 MR. SANDIFER: I think it was December of '88.

18 JUDGE CHACHKIN: So TV40 was on the air when this,
19 Hal Etsell prepared this business plan.

20 MR. SANDIFER: Yes, sir.

21 JUDGE CHACHKIN: So is -- the way I read this
22 business plan I thought this dealt strictly with the CPs.
23 Didn't have anything to do with TV40. Now all of a sudden
24 we're talking about TV40 when it already had been on the
25 air --

1 MR. SANDIFER: Which --

2 JUDGE CHACHKIN: -- for 3 years.

3 MR. SANDIFER: Which exhibit are we --

4 MR. SCHAUBLE: Help the witness --

5 MR. SHOOK: We're looking at Exhibit 210 --

6 MR. SANDIFER: TBF Exhibit 210.

7 MR. SHOOK: -- the second page.

8 JUDGE CHACHKIN: That's why I didn't understand
9 what's going on with this discussion when we have a station
10 that's already on the air and programming.

11 (Asides.)

12 JUDGE CHACHKIN: Questions are being asked
13 concerning the timetable on page 2. And as I read the
14 timetable we're talking about developing the CPs.

15 MR. SCHAUBLE: Your Honor, Your Honor, there is a
16 reference to TV40 in, in this document.

17 JUDGE CHACHKIN: Where is that?

18 MR. SCHAUBLE: On the first page of the very top of,
19 of the first paragraph on page 1, TBF Exhibit 210.

20 JUDGE CHACHKIN: Oh, the fact that they already
21 operate a low-power station in Carlisle, Pennsylvania.

22 (Pause.)

23 JUDGE CHACHKIN: Perhaps you want to read this
24 document over. That might --

25 MR. COHEN: I think that's a good idea.

1 JUDGE CHACHKIN: We'll go off the record to allow
2 the witness to read the document over.

3 (Off the record at 9:44 a.m. Back on the record at
4 9:46 a.m.)

5 JUDGE CHACHKIN: -- the record. Now we had an
6 opportunity to read Mr. Etsell's business plan, I don't know
7 if you want to modify your answers or as to what, what was
8 envisioned. Or the Bureau wants to ask any further questions.

9 BY MR. SHOOK:

10 Q Well, let's go back to the fall of 1991. The
11 arrangement with Mr. Fenstermacher has now fallen through.
12 Raystay has TV40 of which you are now the person responsible
13 for operating TV40. Raystay also has at this point five
14 construction permits for Red Lion, two for Lancaster and two
15 for Lebanon.

16 You have given us -- you have testified about making
17 some inquiries or efforts relative to programming. The
18 indication or the thrust of your answer I thought was that
19 your efforts were basically to find programming for TV40 or to
20 find better programming for TV40. Am I to understand that
21 your efforts relative to finding programming for TV40 are
22 somehow also related to finding programming for the five
23 construction permits that Raystay has, or is there really no
24 connection between the two?

25 A I believe there's a connection. But my primary

1 purpose was not out seeking programming for the development of
2 the construction permits.

3 Q Now if there's a connection, please explain to us
4 why there is a connection. If you find programming that you
5 believe is going to be acceptable or money making for TV40,
6 how does that have any effect whatsoever on the five
7 construction permits that Raystay also has?

8 A Probably one of the greatest limitations of TV40 is
9 that it's primary market is being on the Carlisle cable system
10 that Raystay owns. So you know, my intent was to find a
11 programming format that would attract Sammons in Harrisburg to
12 carry TV40.

13 And you know, once we were to pick up another, you
14 know, 90,000 eyeballs I guess, 90,000 subscribers, a couple
15 hundred thousand eyeballs in the, in the Harrisburg market,
16 then I think there would have been a critical mass to expand
17 TV40 and would have, it would have had some area identity
18 other than just being on a few cable systems in the Carlisle-
19 Mechanicsburg area.

20 So I guess I think it would have -- had Sammons
21 actively participated in the success of TV40, I think that
22 might have had some impact upon other cable operators in the
23 region to become involved in, in the network approach.

24 Q Well, does that mean then that the bulk of the
25 programming that appeared on TV40 would also appear on the

1 Lancaster and Lebanon and, and Red Lion stations? Was that
2 the idea?

3 A That's a possibility. That's not, that's not
4 necessarily a requirement.

5 Q Oh, I'm not, I'm not saying it was a requirement.
6 All I'm saying is what was Raystay's plan? I mean the point
7 is that if it wasn't Raystay's plan to utilize the TV40
8 programming or the bulk of the TV40 programming, then it
9 really doesn't matter what TV40 programming really was.
10 Because you were going to use different programming for the
11 other stations anyway.

12 (Pause.)

13 A Well, I feel that some of the programming research
14 that I did for the benefit of TV40 would have had some
15 applications to the construction permits. But it certainly
16 wasn't an integral part of the business plan that Hal Etsell
17 had prepared as a draft here that's in Exhibit 210.

18 Q Now was anybody else's efforts relative to
19 programming specifically directed to the development of the
20 construction permits, or was that programming research again
21 basically directed toward TV40?

22 A Are we talking about the fall of 1991?

23 Q Yes, we are. We're still in the same time frame.

24 A Other than Mr. Etsell, I know of no one else -- I
25 certainly was not making this one of my primary

1 responsibilities to find to establish this alternate
2 programming that he mentions in his plan here.

3 Q Now in terms of Mr. Etsell's efforts, he was
4 advising you periodically between the fall of 1991 and, and
5 March of 1993 of what he was doing in this area if anything?
6 In this area by I mean obtaining programming for the
7 construction permits.

8 A Mr. Etsell and I had more than one conversation in
9 this area about the TV40 operations and the low-power
10 construction permits. But Mr. Etsell was not in our office
11 every day, nor did I have structured meetings with him.

12 Q Now if I remember right --

13 A Independently.

14 Q Excuse me. If I remember right now he didn't report
15 to you, correct? He reported directly to Mr. Gardner?

16 A Yes. He, he reported to George Gardner.

17 Q I should distinguish between David and George. And
18 it's also the case that -- apparently it's the case then if
19 you found out what Mr. Etsell was doing with respect to the
20 development of programming ideas for the low-power
21 construction permits that that was more in the way of just
22 casual information being passed back and forth among co-
23 workers as opposed to any kind of structured setting where,
24 you know, there's a meeting for the purpose of exchanging
25 information among corporate peers as to who's doing what.

1 A I would say the information was exchanged in both in
2 casual meetings and in some more structured budget meetings
3 that we had in various periods during the period from February
4 of '91 through March of '93.

5 Q Was Mr. Etsell involved in the budget prospect in,
6 in some way between February of '91 and March of '93?

7 A Yes, he was.

8 Q And how was he involved?

9 A Mr. Etsell throughout this period was the chief
10 operating officer of the GH cable companies which had about
11 12,000 subscribers in Mississippi and Arizona. So we worked
12 on those collectively, and then Mr. Etsell was also the chief
13 marketing person for Raystay and for GH and for Waymaker
14 during this period. And so he was involved in the, any number
15 of marketing projections and marketing costs and, and other
16 things that had to do as well as the operating and the capital
17 planning for the GH cable systems.

18 As well as he, his office in Boothwyn was a separate
19 cost center for the Waymaker Company. So he, he did his own
20 departmental budget for his office as well as for the
21 marketing group at the Waymaker Company.

22 Q Now apparently there was a time, at least this memo
23 suggests that in February 1991 Mr. Etsell was more or less in
24 charge of the development of the low-power permits. As a
25 result of that or as a consequence of that, did Mr. Etsell

1 ever propose in the budget process that funds be set aside for
2 the construction and operation of the low-power permits?

3 A I know the matter was discussed as we prepared our
4 budgets. He may have made a proposal, but one was never put
5 into the budget. I don't remember if he specifically made a
6 proposal. But I know the matter was discussed in our
7 budgetary meetings.

8 Q I take it then you're not aware of any documents
9 that Mr. Etsell generated or that came from his shop under his
10 supervision that proposed funds for the construction and/or
11 operation of the low-power permits.

12 (Pause.)

13 A As I prepared for my testimony, I think there's two
14 pages of Exhibit 211 that have to do with cost. I don't
15 remember seeing this previously and, and I guess that, you
16 know, Mr. Etsell may have thrown these numbers around in some
17 budgetary discussions. But I know of no formal budget
18 proposals that were made by Mr. Etsell during the period.
19 Although these numbers were probably discussed at the
20 budgetary meeting.

21 Q So you're referring to the two pages of Trinity
22 Broadcasting or Trinity Broadcasting of Florida Exhibit 211?

23 A Yes, sir.

24 Q All right. And you have -- and you've testified I
25 think that you had, you don't, you didn't recall seeing these

1 documents until you were preparing for this hearing.

2 A Either preparing for this hearing or my deposition.
3 But I don't remember seeing these documents prior to the
4 preparation for these hearings.

5 Q If Mr. Etsell were not the person to have proposed
6 any expenditures for the development, for the building and the
7 operation of the low-power permits, would there have been
8 anyone else who would have done that?

9 A I guess the possibilities would be David Gardner or
10 George Gardner or myself. There's no one else in the
11 organization that would have made the proposal other than the
12 three of us.

13 Q Well, insofar as you know you didn't do it.

14 A So far as I know I didn't do it.

15 Q And so far as you know, George Gardner didn't do it.

16 A So far as I know George Gardner did not do it.

17 Q And so far as you know David Gardner didn't do it.

18 A I would say that David Gardner would have -- I mean
19 I remember a discussion, but I don't remember who was in the
20 room at the time, because we have many budget discussions.
21 But I know that David Gardner has asked for funds to be
22 provided for in the budget to, to develop the LPTV
23 construction permits. Or David Gardner has made, made me
24 aware that, that such funds would, you know, could be
25 required.

1 Q And what happened to his request?

2 A We chose not to allocate those funds as we prepared
3 the budgets.

4 Q Do you remember -- do you have any recollection as
5 to which years David Gardner made such proposals and then --

6 A Well, the years that I remember actively discussing
7 the low-power construction permits at the time that we
8 prepared the budgets would be in the fall of 1991 and the fall
9 of 1992 as we prepared the budgets for fiscal years that began
10 to, began November 1st of those years.

11 Q Well, let's, let's look at the fall of 1991. It was
12 only in August of 1991 that Raystay came to learn that the
13 Fenstermacher arrangement was not going to work. And so that
14 arrangement was canceled. The documents in this proceeding
15 reflect that shortly thereafter there were efforts made by
16 Raystay to work out some kind of arrangement with Trinity on
17 the one hand. There were also explorations, exploration of an
18 arrangement with Mr. Shaffner as a second part. And then we
19 also have Mr. Grolman coming into the picture. Now this is
20 all in the fall of 1991.

21 So are, are you saying that it's your recollection
22 that during the fall of 1991 David Gardner proposed that funds
23 be set aside for the building and construction -- I mean the
24 construction and operation of the low-power permits when it
25 appears that most of the efforts or the efforts that were

1 being made by Raystay at that point were directed toward
2 selling the permits.

3 MR. SCHAUBLE: Objection to the characterization,
4 Your Honor. The witness has testified as to --

5 JUDGE CHACHKIN: Sustained.

6 MR. SHOOK: Let me, let me try that again. In the
7 fall of 1991, considering what was happening with the Trinity
8 situation, the Shaffner situation and the Grolman situation,
9 are you saying it's your recollection that David Gardner
10 proposed funds for the construction and operation of the low-
11 power permits?

12 MR. SCHAUBLE: Objection to the interjection of that
13 phrase in there. I have no objection if counsel wishes to ask
14 directly the, directly the question, but I don't understand
15 the purpose of interjecting the discussion --

16 JUDGE CHACHKIN: Overruled. You can answer the
17 question.

18 MR. SANDIFER: As I stated earlier, I think I
19 mentioned that David Gardner made mention or something. I, I
20 don't know whether you would say make a proposal. I think
21 that might be too strong a term. He brought it to my
22 attention that funds would need to be allocated to develop the
23 construction permits on a timely basis. And primarily because
24 of a number of things, we chose not to allocate those funds at
25 the time we prepared the budget in the fall of 1991 for the

1 budgetary year beginning November 1st.

2 BY MR. SHOOK:

3 Q Now having made the decision not to allocate funds,
4 can you tell us, can you recall why the decision was made not
5 to allocate funds?

6 A I think we spent -- yes, sir, I can. And the reason
7 is, is I think I stated that, you know, my focus was on
8 refinancing the company with discussions with Greyhound as
9 well as working on some other loan restructurings which I was
10 doing. So we chose to allocate our funds to the rebuild and
11 the extension and the equipping of our cable systems during FY
12 '91 as our primary focus of our business.

13 So we had a capital budget. George Gardner
14 instructed me to put a capital budget in place that did not
15 anticipate the completion of the refinancing with Greyhound or
16 with anyone else. So we put together a capital budget that
17 had tight capital allocations, and I chose not to put the LPTV
18 construction permit development funds in there and that
19 decision was not overrode by anyone else.

20 Q The only person who would have overridden that
21 decision would have been George Gardner, correct?

22 A The only person that was ultimately could have
23 overridden it was George Gardner. He could have been
24 influenced by others.

25 Q Did you have any discussions with George Gardner in

1 | which you made him aware that with respect to the fiscal year
2 | budget for beginning in November of 1991 that you had made a
3 | decision not to allocate funds for the construction of the low
4 | power permits?

5 | A I now that I had those specific discussions in the
6 | fall of 1991. I don't recall if George Gardner was present
7 | when we had the budgetary discussions. But he certainly had a
8 | lot of time to review the capital and the operating budgets
9 | and they weren't there.

10 | Q Do you recall George Gardner ever questioning you
11 | about the absence of funds for the building and operation of
12 | the low-power permits with respect to the fiscal year budget
13 | beginning November 1991?

14 | A No.

15 | Q Now I'd like to turn to TBF Exhibit 245, the third
16 | page. Before, before we go on to this subject, since we've
17 | been talking about budgets and deliberative processes there,
18 | I'd like to now move to the, to the budget beginning for the
19 | fiscal year November -- well, actually no. I don't have to do
20 | that. Strike that.

21 | Let's, let's go back to, let's go back to TBF
22 | Exhibit 245. Just to orient yourself, take, take a little
23 | time out to read pages 3 and 4, and then I'll ask you some
24 | questions about it.

25 | (Pause. Asides.)

1 A Yes, sir.

2 Q Reading this document as a whole, it was your
3 understanding, wasn't it, that the purpose for this document,
4 that is the FCC Form 307, was to convince the Commission that
5 the construction permits in question for Lancaster and Lebanon
6 should be extended because Raystay was going to build those
7 stations if the extension applications were granted.

8 A Yes, sir.

9 Q You understood that was the purpose.

10 A Yes, I did.

11 Q Did you have any other understanding or an
12 understanding in addition to that?

13 A I don't recall any other understandings.

14 Q Now with that purpose in mind, let's take a look at
15 the third paragraph. And first of all, the first two
16 sentences concerning equipment. Now it seems to be clear from
17 testimony in this proceeding that equipment had not in fact
18 been ordered or delivered. There's no serious question about
19 that.

20 The second sentence though indicates that
21 discussions with equipment suppliers had actually taken place.
22 Now you were aware of such discussions? Or were you taking
23 David Gardner's word for it that such discussions had
24 occurred?

25 A Actually I was taking George Gardner's word for it

1 that such discussions had occurred. In -- preliminary to the
2 signing of the documents with Mr. Fenstermacher's company,
3 George Gardner and I met with Mr. Fenstermacher, and there was
4 a discussion about his planned programming and activity that
5 he was going to direct at the LPTV properties that we were,
6 were contracting with him, agreeing with him on. And the two
7 of them went into quite a discussion about the type of
8 equipment that Mr. Fenstermacher would have recommended and
9 the type of relationships that he had with vendors.

10 And George Gardner went on to the type of experience
11 he'd had in constructing TV40 and what he had seen since then
12 and what he liked. And you know, that was I guess my primary
13 direct experience in this area although as I went into files
14 that were in various locations in our office, some of which
15 were in the office of George Gardner, he had significant
16 amounts of files that had to do with program equipment,
17 brochures for type of equipment that would be used in these
18 operations. So I guess that is the primary knowledge that I
19 have of this statement.

20 Q The first aspect, the discussions that Mr. Gardner
21 and Mr. Fenstermacher had, now that was all toward a view
22 though of, of having Mr. Fenstermacher build the stations
23 himself rather than have Raystay build it. Wasn't that the
24 case?

25 MR. SCHAUBLE: Objection to the characterization,

1 Your Honor.

2 JUDGE CHACHKIN: Well, let's ask the witness if that
3 was the purpose of -- Mr. Fenstermacher. Witness may answer
4 it -- say so overruled.

5 MR. SANDIFER: Okay, now could you restate the
6 question please?

7 BY MR. SHOOK:

8 Q All right. You had indicated that essentially there
9 were two bases or two thoughts that you had in mind when you
10 were looking at the second sentence of paragraph three. And
11 they both related to George Gardner. In the first one, the
12 first aspect that you had in mind was Mr. Gardner's and Mr.
13 Fenstermacher's discussions. And my question to you is wasn't
14 that with a view toward Mr. Fenstermacher building the, the
15 stations rather than Raystay building the stations?

16 A Well, I don't know if we need to go back through the
17 entire agreements. But I think there were, that the
18 agreements were structured in a flexible manner that Raystay
19 would still have control, and certainly from a technical
20 standpoint we would have control. And since George Gardner's
21 expertise is from a technical standpoint he, he made it very
22 clear what type of specifications he would want anyone else
23 that would be constructing stations that we would have some
24 interest in that he, he would not want them to utilize
25 equipment that he didn't properly understand.

1 And they had, you know, some -- I mean they were
2 down to vendors and different types of model numbers and all
3 sorts of things that Mr. Gardner wanted to use or Mr.
4 Fenstermacher recommended. And that's sort of where we went.

5 Q But you don't mean to suggest by that answer, do
6 you, that Raystay was actually going to buy the equipment in
7 question?

8 A I think that Raystay intended to supervise the
9 purchase of that equipment because there were -- although Mr.
10 Fenstermacher, his companies would be leasing this equipment
11 or owning it and leasing the permits and, and the sites, there
12 were many instances in which if he didn't perform or chose not
13 to purchase the equipment that either we would have to
14 purchase it -- we would have to pay him fair market value for
15 it, or it would be ours under certain conditions. So
16 therefore I think the eventuality would be that we would still
17 want to approve the equipment and its specifications that he
18 was going to provide.

19 Q I'm, I'm not trying to argue with you in terms of
20 who had control of the situation or who might have to approve
21 something. And perhaps what I need to do is, is step back a
22 little bit and look at the budget for the fiscal year
23 beginning November 1, 1990 covering the last 2 months of 1990
24 and going into 1991. Now that budget you had involvement
25 with, did you not?